



April 11, 2013

Ex Parte

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Special Access for Price Cap Local Exchange Carriers,
WC Docket No. 05-25

Dear Ms. Dortch:

This is to inform you that on April 9, 2013, representatives of USTelecom and member companies met with Deena Shetler, William Layton, Ken Lynch, Belinda Nixon, Eric Ralph, and Matt Warner of the Wireline Competition Bureau and Jack Erb of the Office of Strategic Planning & Policy Analysis in connection with the docket identified above. Representing the industry in this meeting, either in person or by conference call, were the following: Melissa Newman of CenturyLink; Curtis Groves and Maggie McCready of Verizon; Robert Barber, Jay Bennett, and Frank Simone of AT&T; and the undersigned of USTelecom.

During this meeting, we discussed the National Cable & Telecommunications Associations's (NCTA) March 22, 2013 *ex parte* letter. We explained that the Commission was correct to issue a comprehensive, mandatory data request. And we explained that if the Commission correctly evaluates the right data from all providers, its analysis will confirm that the high-capacity marketplace is competitive.

Critical to that analysis is data the Commission has requested from cable providers, who are rapidly expanding their networks to provide high-capacity services to business customers of all sizes. We explained that the Commission cannot grant cable providers special relief from the mandatory data recollection without compromising the data set upon which the Commission intends to base its analysis. Although NCTA makes some fair points about the burden associated with responding to the mandatory data collection, all providers across the industry will have to deal with the burden. Cable providers, who have incentives to downplay their competitive presence, should not get a carve-out from responding to the data requests.

We discussed several of NCTA's requests more specifically.

First, we discussed NCTA's proposal to limit the network map information that cable providers would submit. We explained that the network maps will be critically important to the Commission's analysis. Producing the requested maps will be burdensome for all respondents, including the incumbent LEC's competitive LEC affiliates. But the airline-view, stick-detail approach that cable proposes will not provide the Commission with the detail it needs to determine how both actual and potential competition provide competitive discipline in the high-capacity marketplace.

Second, we discussed NCTA's request to limit the information cable providers would submit regarding their purchases. In particular, NCTA complains that the detailed breakdown of services cable purchases through tariffs would be burdensome. But we explained in our meeting that collecting this information will be burdensome for all parties, including the ILECs on whom NCTA proposes to place the entire burden. Cable providers are no worse off in this regard than other respondents, and indeed are in the best position to identify the source of their purchases. Accordingly, they should not receive special treatment.

Third, we discussed NCTA's request to limit the information cable providers would submit regarding marketing materials and plans to 2013 only. We explained that submitting marketing plans through the end of 2014 would add little if anything to the burden of responding. Furthermore, we explained that by the time the data is submitted, much of 2013 will have already gone by. NCTA's argument that 2014 plans will be too speculative rings hollow. In any event, the Commission can determine what weight to give those data once it collects it; it cannot do so unless it actually receives 2014 data. Marketing plans and information as to where providers intend to offer service in the near future are particularly relevant to potential competition, and the Commission was correct to request it.

Fourth, we discussed NCTA's request to limit the information cable providers would submit regarding Requests for Proposals. As with marketing data, NCTA seeks to limit data related to potential competition. But the Commission has already recognized that its analysis "must take account of both actual and potential competition, as well as sources of intramodal and intermodal competition."¹ The high-capacity services marketplace is dynamic, and the Commission has to look not only at the competitive alternatives available to customers today, but also at new sources of supply that competitors have planned or that are likely to become available going forward. The RFPs that providers have won and lost can provide important insight and information into competitors' plans. If the Commission were to scale back its request for RFP information, it likely would lose relevant information that could help its analysis. It should leave the request as is.

¹ *Special Access for Price Cap Local Exchange Carriers*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 16318, ¶ 69 n.152 (2012) ("Notice").

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Pursuant to Commission rules, please include this ex parte letter in the docket of the proceeding identified above.

Sincerely,

A handwritten signature in cursive script, appearing to read "Glenn Reynolds".

Glenn Reynolds

Vice President, Policy

c: Deena Shetler
William Layton
Ken Lynch
Belinda Nixon
Eric Ralph
Matt Warner
Jack Erb